

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 668-D
Case No. 94-4M/89-31C
(Consolidated PUD & Map Amendment @ 500 5th Street, N.W.)
November 14, 1994

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on July 25, 1994. At that hearing session, the Zoning Commission considered an application from 488 Associate Limited Partnership. The application requested a modification to a previously approved planned unit development (PUD) and related map amendment pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on March 10, 1994, requested modification to a previously approved planned unit development (PUD) and related map amendment for property at premises 500 5th Street, N.W., Lot 26 (formerly Lots 15, 16, 17, 18, 19, 24, 25, 821, 822, and 823) in Square 488.
2. By Z.C. Order No. 668 dated July 9, 1990, the Zoning Commission approved a mixed-use PUD project consisting of office and retail uses. The entire PUD project had a height of 120 feet, a maximum floor area ratio (FAR) of 7.64 a maximum lot occupancy of 99 percent, a gross floor area of approximately 338,125 square feet for office/retail uses, and parking to accommodate 214 self-parked cars and 273 stacked-parked cars. The Commission also approved the rezoning of the site from SP-2 to C-3-C.
3. By Z.C. Order No. 668-A, dated November 19, 1990, the Zoning Commission amended Condition No. 6 of Order No. 668 to allow for the provision of two lanes "in" and either one or two lanes "out" for vehicular traffic in the interior of the parking garage.
4. By Z.C. Order No. 668-B, dated August 5, 1991, the Zoning Commission extended the validity of the PUD and Z.C. Order Nos. 668, and 668-A for two years.

5. By Z.C. Order No. 668-C, dated March 14, 1994, the Zoning Commission extended the validity of the PUD and Z.C. Order Nos. 668, 668-A, and 668-B for a period of two years.
6. This application requests modification of the existing PUD to include as an alternative development, the adjacent Lots 833 and 842 at the northern end of Square 488. That property is the site of a District of Columbia Fire Station and is owned by the District of Columbia. Lots 833 and 842 are presently unzoned. The applicant is also requesting that the property be zoned C-3-C to be consistent with the zoning of the remainder of the Square as approved by the Commission in Z.C. Order No. 668.
7. The applicant proposes to improve Lots 833 and 842 with an addition to the PUD by building over the existing two-story fire station. The addition will be at levels 4 through 10. The operation of the fire station will be unaffected by the PUD modification.
8. As proposed, the office/retail building will have a total of 475,125 square feet of gross floor area, or 137,000 square feet greater than the building as originally approved. As integrated into the project, the fire station comprises approximately 23,400 square feet of gross floor area. Therefore, the total building (PUD and fire station) will contain 498,525 square feet of gross floor area. The FAR of the new office space above the fire station is 6.52, or .02 FAR above the matter of right for C-3-C. The FAR of the PUD, as approved, and the additional office construction is 7.28 FAR. The total on-site FAR, including the fire station, will remain at 7.64.
9. The building will contain a total of approximately 313 parking spaces in a stacked parking arrangement. There will be ten bicycle parking spaces.
10. The applicant, through the Exclusive Rights Agreement and Memorandum of Understanding with the District of Columbia requests the option to develop the site either consistent with Z.C. Order Nos. 668, 668-A, 668-B, and 668-C or under the modification approval.
11. The applicant indicated that the proposed modification would continue to provide the amenities of the previously approved PUD. These amenities include historic preservation, superior urban design, public space improvements, and a contribution of \$100,000 to ensure maintenance of the National Law Enforcement Officers Memorial in Judiciary Square. The applicant also agreed to provide jobs for District residents, and contracts

for minorities in the construction phases of the project through the First Source Employment and the Minority Business Opportunity Commission programs, respectively. Improvements to the public space surrounding the building, including improved landscaping for the entire square would also be provided. No additional amenities are proposed in this case, because the applicant has negotiated with the City to pay fair market value for the additional FAR.

12. The applicant's traffic expert stated that the location and configuration of the underground garage, as approved, would not be altered. However, the number of parking spaces would be increased from 273 stacked spaces to 313 stacked spaces (with a more efficient valet parking system). He further stated that, although 273 parking spaces exceed the requirements of the Zoning Regulations (i.e. 197 parking spaces), it is expected that the building would be leased to large government agencies that may not want limitations on parking. As such, the approval for 313 parking spaces would facilitate the leasing of the project.
13. To the north of the subject square, across F Street, Square 487 is zoned SP-2. To the south, immediately across E Street, the area is zoned C-3-C. Immediately west, across 6th Street, the area is zoned DD/C-4. Judiciary Square, as District and Federal property, is not zoned.
14. The C-3-C District permits matter of right major business and employment centers of medium/high density development, including office, retail, housing, and mixed uses to a maximum height of 90 feet, a maximum FAR of 6.5 for residential and other permitted uses, and a maximum lot occupancy of 100 percent.
15. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be less than the matter of right standards identified above. The Zoning Commission may also approve uses that are permitted as a special exception and would otherwise require approval by the Board of Zoning Adjustment.
16. The District of Columbia Generalized Land-Use Map Element of the Comprehensive Plan for the National Capital designates the PUD site within the "high density commercial" category.
17. The Office of Planning (OP), by report dated July 13, 1994, and by testimony at the public hearing, recommended approval of the application. The OP reported that the subject site is designated for high density commercial use on the Generalized

Land Use Map of the Comprehensive Plan. OP stated that the Commission determined in Order No. 668 that the approved PUD is in accord with the goals and policies of the Comprehensive Plan. Since the proposed modification continues the design and uses of the PUD, OP concluded that the modification would meet the goals and objectives of the Comprehensive Plan. The OP was of the opinion that the requested rezoning for Lots 833 and 842 would be consistent with the Commission's prior action. OP noted that a modification to the Downtown Urban Renewal Plan would be required.

18. OP stated that the applicant has entered into a Memorandum of Understanding with the District of Columbia Redevelopment Land Agency (RLA) to acquire the fee interest for the air space above the fire station. The applicant's agreement with the RLA to acquire the air space over the fire station is based on enhancing the flexibility and marketability of the project. The applicant is requesting the flexibility to construct the presently approved PUD, or in the alternative, the presently approved PUD coupled with the proposed modification. In either instance, the development would take place in accordance with the PUD approval by the Zoning Commission. In the opinion of the Office of Planning, this flexibility, if approved, would not generate adverse impacts on the development of this square.
19. Regarding the urban design aspects of the project, the OP reported that the site is subject to design review by the Commission of Fine Arts (CFA), which has given conceptual approval to the proposed modification. OP pointed out that the proposal for modification reflects the same scale, design vocabulary, and spirit that was deemed to be responsive to the Judiciary Square Plan and was previously approved by the Zoning Commission in the context of the original PUD.
20. The Department of Public Works, (DPW), by memorandum dated July 14, 1994, recommended that the number of parking spaces be limited to no more than 273 spaces, including stacked parking to control congestion and limit pollution. DPW recommended that at least ten bicycle parking spaces be provided in the building. DPW reiterated its April 27, 1990 recommendation regarding the original PUD that space be provided for front-in/front-out truck operations to access the loading facilities.
21. The Redevelopment Land Agency (RLA) and the applicant in a Memorandum of Understanding dated January 25, 1993, stated that the purchase price for the air rights shall be \$4,200,000 for 137,702 square feet of air rights development approved by the D.C. Zoning Commission.

22. By memorandum dated August 3, 1994, RLA stated that it acquired the property including the rights to develop the site, under the authority of the urban renewal program. The fire station was built in accordance with the Downtown Urban Renewal Plan. RLA routinely disposes of property for development which it has acquired and which is not needed for public purposes. The funds received from the sale of the air rights will be deposited to the RLA's account and will be used for the purposes specified by law. The RLA further noted that when it negotiated and agreed to the memorandum of understanding with the applicant, it understood that the maximum amount to be received for the purchase of the air rights was \$4,200,000 which was the appraised market value of those rights.
23. No report was received from Advisory Neighborhood Commission (ANC) 6A.
24. No letters were received from persons in opposition to the PUD modification nor were there any persons testifying in opposition to the requested modification.
25. The Zoning Commission concurs with the recommendations and position of the applicant and OP, and in part with those of DPW.
26. The Commission finds that the applicant has agreed to include ten bicycle spaces in the garage. Additionally, the Commission reiterates its Finding Nos. 25 and 27 of Z.C. Order No. 668 that front-in/front-out loading would lead to demolition of the historic structure at 513 6th Street, N.W. The Commission further finds that the additional parking provided over the 273 spaces will serve the needs of potential tenants and is desirable for the area.
27. The Zoning Commission believes that approval of this modification to the previously approved PUD is in the best interest of the District of Columbia, and is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act.
28. The proposed action of the Zoning Commission to approve this application for modification was referred to the National Capital Planning Commission (NCPC), pursuant to the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated November 3, 1994, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital. The NCPC further stated that it looks

forward to giving its final report to the Zoning Commission as soon as possible effective upon approval of the necessary Urban Renewal Plan modifications and the completion of the review under the National Historic Preservation Act, and upon the review and approval of the necessary modifications to the existing fire station.

29. The Zoning Commission finds that the applicant has satisfied the intent and purpose of Chapter 24 of DCMR, Title 11, Zoning.

CONCLUSIONS OF LAW

1. The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interest of the District of Columbia.
2. The development of this PUD project, as modified, carries out the purpose of Chapter 24 of the Zoning Regulations to encourage the development of well planned commercial developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter of right development.
3. The development of the project, as modified, is compatible with District-wide and neighborhood goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. The approval of this application for modification is not inconsistent with the Comprehensive Plan for the National Capital and the purposes of the Zoning Act.
5. The approval of this application for modification will promote orderly development, in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map.
6. The Zoning Commission did not receive a written report from ANC-6A, nor did a representative appear at the public hearing. Therefore, the issues and concerns of the ANC cannot be accorded "great weight" in this proceeding.
7. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby

orders APPROVAL of the application for modification of a PUD and map amendment from unzoned to C-3-C for Lots 833 and 842 in Square 488 at 500 5th Street, N.W. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the plans prepared by the architectural firm of Florance, Eichbaum, Esocoff & King, and marked as Exhibit No. 30, as modified by the guidelines, conditions and standards of this order, and in accordance with the approval obtained in Z.C. Order Nos. 668, and 668-A through 668-C.
2. The gross floor area of the project (including the fire station) shall not exceed 498,525 square feet, for an FAR of 7.64.
3. The height of the building shall not exceed 120 feet, with setbacks as shown on the plans marked as Exhibit No. 30.
4. The PUD shall contain a minimum of 212 off-street parking spaces with the potential for approximately 313 parking spaces through a stacked parking scheme, and a minimum of ten bicycle parking spaces.
5. Exterior materials shall include architectural recast stone with colors of materials to be finally determined by the Commission of Fine Arts.
6. The applicant shall have flexibility to vary the design of the building subject to final approval by the Commission of Fine Arts and the National Capital Planning Commission.
7. The applicant shall have the flexibility that had been sought originally to develop the PUD as previously approved or to develop the PUD as modified.
8. The amenities specified as Condition No. 9 of Z.C. Order No. 668 shall remain valid.
9. The applicant shall comply with the Memorandum of Understanding that they have entered into with the Minority Business Opportunity Commission, marked as Exhibit P of Exhibit 21 of the record.
10. The applicant shall comply with their First Source Agreement with the Department of Employment Services, marked as Exhibit Q of Exhibit 21 of the record.
11. The change of zoning from unzoned to C-3-C shall be effective upon recordation of a covenant as required by 11 DCMR 2407.3.

12. No building permit shall be issued for the site until the applicant has recorded a covenant in the Land Records of the District of Columbia between the owner and the District of Columbia that is satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs ("DCRA"). The covenant shall bind the owner and all successors in title to construct on and use the property in accordance with this order and amendments thereto of the Zoning Commission.
13. No building permit shall be issued for the PUD modification until the applicant has recorded a "Notice of Modification" of Z.C. Order No. 668-D with the land records of the District of Columbia. That Notice of Modification shall include a true copy of Z.C. Order No. 668-D that the Director of the Office of Zoning has so certified.
14. After recordation of said Notice of Modification, the applicant shall immediately file a certified copy of the Notice of Modification with the Office of Zoning for the records of the Zoning Commission.
15. The PUD approval by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, applicant must file for a building permit as specified in 11 DCMR 2401.1. Construction shall start within three years of the effective date of this order.
16. Pursuant to D.C. Code Section 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25 (1987), and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Regulations Division of DCRA to approve permits if the applicant fails to comply with any provision of D.C. Law 2-38 as amended.


Vote of the Zoning Commission taken at its public meeting on September 12, 1994: 5-0: (Jerrily R. Kress, William B. Johnson, William L. Ensign and Maybelle Taylor Bennett, to approve, John G. Parsons, to approve by absentee vote).

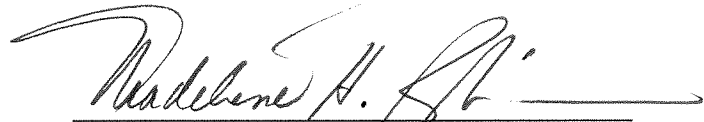
This order was adopted by the Zoning Commission at its public meeting on November 14, 1994, by a vote of 5-0: (William B. Johnson, William L. Ensign and Maybelle Taylor Bennett, to adopt, John G. Parsons and Jerrily R. Kress, to adopt by absentee vote).

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In accordance with 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register; that, is, on

DEC 9 1994


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


MADELIENE H. ROBINSON
Director
Office of Zoning

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